IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 28TH MARCH 2007 / 7TH CHAITHRA 1929

Crl.MC.No. 974 of 2007()

CC.471/1998 of Judicial First Class Magistrate Court -I, Perinthalmanna

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PETITIONER: 2nd ACCUSED

PODIPPARA HUSSAIN,
S/O LATE MOOSAKUTTY, PODIPPARA HOUSE,
P.O.KURUVMPANAM, MALAPPURAM DISTRICT.

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENTS/DEFACTO COMPLAINANT/STATE:

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1. THE SUB INSPECTOR OF POLICE,
KOLATHUR POLICE STATION, MALAPPURAM DISTRICT.

2. THE STATE OF KERALA REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.974 of 2007

Dated this the 28th day of March 2007

O R D E R

The petitioner faces indictment in a prosecution for the offences punishable interalia under Sections 448 and 427 read with 14 I.P.C. Consequent to non-appearance of the petitioner before the learned Magistrate, he finds himself in the unenviable predicament of a warrant of arrest issued by the learned Magistrate chasing him. The petitioner now wants to surrender before the learned Magistrate. The learned counsel for the petitioner submits that the petitioner apprehends that his application for bail may not be considered on merits, in accordance with law and expeditiously by the learned Magistrate. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume

that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs.Deputy Superintendent of Police [2003(1)KLT 339].

3. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself unless there are exceptional and compelling reasons.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006